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United States Senate

COMMITTEE ON
GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

November 9, 2004

His Excellency Kofi A. Annan
Secretary-General
The United Nations Secretariat
One United Nations Plaza
New York, NY 10017

Dear Mr. Secretary General:

Thank you for your belated letter of September 29, 2004 in response to our letter of June 1, 2004. We regret that the United Nations ("U.N.") has declined to produce the internal audit reports as requested in our letter to you. In addition to the U.N.'s refusal to produce relevant documents and give access to key personnel, we have become aware of another troubling issue.

Contrary to the position taken by the U.N. with respect to previously issued subpoenas and information requests to several U.N. contractors by the United States Senate Permanent Subcommittee on Investigations (the "Subcommittee"), it now appears as though the U.N. and the Independent Inquiry Committee ("IIC") are affirmatively preventing the Subcommittee from receiving documents from Lloyd's Registry Inspection Ltd. (See attached letter.) This change in position by the U.N. is hindering our efforts to obtain relevant documents. We strongly urge the U.N. to withdraw its objections to the production of documents by Lloyd's Registry to the Subcommittee.

As you know, pursuant to its authority under Senate Resolution 66, 108th Congress, Section 11 (e), the Subcommittee is currently conducting an investigation into the U.N. "Oil-for-Food" Program ("OFF Program"). Our Subcommittee is a principal investigating body of the U.S. Senate and is charged with investigating allegations of fraud and abuse that affect the interests of the United States. The Subcommittee has a long history of conducting complex and objective investigations in a bipartisan fashion.

Since the initiation of our inquiry, Subcommittee staff have met with key officials in the U.S. Departments of State, Defense, Justice, Treasury and the Central Intelligence Agency and has obtained documents from these agencies related to U.S. participation in the OFF Program. We have issued a number of subpoenas to a wide variety of entities, and received millions of pages of evidence. Moreover, the Subcommittee has interviewed dozens of individuals, companies and entities concerning the OFF Program. In addition, we have met with members of the IIC, including Chairman Paul Volcker.

One objective of the Subcommittee's inquiry is to understand the role of the U.N. in the OFF Program. As you know, there are allegations of misconduct and mismanagement by the U.N.

and/or its agents, including allegations of bribery, conflict of interest, and fraud. The recently published report by Charles Duelfer, Special Advisor to the U.S. Director of Central Intelligence, revealed additional evidence that Benon Sevan, Executive Director of the U.N. Office of the Iraq Program, may have received oil allocations from the Government of Iraq. Accordingly, these allegations have raised serious questions concerning the management of the U.N. OFF Program and the U.N.'s capacity to enforce a similar sanction regime in the future.

In light of those concerns, we requested your consent to interview key U.N. personnel and review related documents, including the 55 internal audit reports of the Office of Internal Oversight Services ("OIOS"). The U.N.'s cooperation in making such documents and witnesses available to the Subcommittee is critical to our ability to report to the U.S. Senate on the extent to which misconduct associated with the OFF Program may have adversely affected the interests of the United States, as well as make recommendations to improve any subsequent sanctions regime.

In your response of September 29th, you declined to produce the requested documents and U.N. personnel. You specifically rejected our request for the 55 internal audits, stating that they are "internal records" and that "it is not the policy of the [U.N.] to release them." In addition, you suggested that we direct our requests to Mr. Volcker.

We are troubled by your response for a number of reasons. As a threshold matter, please know that we greatly respect the integrity and abilities of Mr. Volcker and his staff. We had hoped that our investigation would complement Mr. Volcker's inquiry, and neither impede nor interfere with his efforts. The IIC's objectives, however, are sufficiently distinct from the Subcommittee's mission that it is necessary for the Subcommittee to proceed independently from and concurrently with the IIC in order to complete our investigation in a thorough and timely manner.

We are also concerned about your decision to withhold the 55 OIOS audit reports from the Subcommittee. Although your letter asserts that the U.N. has a policy against releasing such internal records, the U.N. has shared comparable OIOS audit reports on other U.N. endeavors with congressional investigators in the past. Similarly, congressional investigators previously had access to OIOS personnel on a variety of matters. In light of such comparable disclosures in the recent past, we are concerned that the U.N.'s non-disclosure policy is being used as both a sword and a shield, *i.e.*, sharing such "internal records" when it favors the U.N., but then declining to do so when such disclosure could have negative implications. Accordingly, we hope you reconsider our request to produce the OIOS reports related to the OFF Program.

Additionally, we have a number of OFF-related issues that we would like to discuss with various U.N. personnel. In making this request, we note that in the past congressional investigators have interviewed U.N. officials concerning certain aspects of the OFF Program. In particular, congressional investigators met with officials of the Office of the Iraq Program, the Office for the Coordinator of Humanitarian Affairs, and the Office of Project Services to discuss the OFF Program in mid-September 2003 and late November 2003. Accordingly, we have detailed below a circumscribed list of U.N. officials that we hope to interview at this stage, while reserving the right to request interviews of additional individuals at a later date.

Office of the Iraq Program

Benon V. Sevan, Executive Director
Stephanie Scheer, Deputy Manager
John Almstron, Chief, Contracts Processing Section

Office for the Coordination of Humanitarian Affairs

Tun Miyat, Humanitarian Coordinator for Iraq
Rodrigo Lopez DeSilva, Deputy Humanitarian Coordinator, Iraq

Treasury

Susan Bishopric

Controller

Jean-Paul Halbwachs, Assistant Secretary General

Office of Internal Oversight Services

Dileep Nair, Chief
Esther Stern, Director, Internal Audit Division
Jayanti Prasad, Auditor In Charge

Board of External Auditors

Hazelien Featherstone, Executive Secretary

Thank you for your assistance in this very important matter. If you have any questions or concerns about the Subcommittee's request, please feel free to contact us directly or have your staff contact Raymond Shepherd, Staff Director and Chief Counsel to the Subcommittee, at (202) 224- or Elise Bean, Staff Director and Chief Counsel to the Minority, at (202) 224-

Sincerely,



Norm Coleman

Chairman

Permanent Subcommittee on Investigations



Carl Levin

Ranking Minority Member

Permanent Subcommittee on Investigations

cc:

Paul Volcker

By facsimile 212-218-7875

Alan Lang

By facsimile (202) 647- 2504

Attachment

Fax message

To Mr Shepherd
United States Senate
Permanent Subcommittee on
Investigations, Committee on
Governmental Affairs

Fax + 1 202 224 7042

From Jim Harrison

Page 1 of 3

Date 26 October 2004

Your ref

Subject

Our ref LEG/2690/JTH/nr1/LA

Dear Mr Shepherd,

As requested, please find attached a copy of the letter I received from Bruce Rashkow, the Director of the General Legal Division of the Office of Legal Affairs of the United Nations of 31 August 2004.

Since receiving that letter I have been informed by the United Nations, via its Independent Inquiry Committee, (IIC), that the United Nations does not want Lloyd's Register Inspection Limited or Lloyd's Register to comply with any U.S. subpoena unless and until it is made enforceable on these English legal entities in England.

Yours sincerely,



J T Harrison
Legal Director.

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POSTAL ADDRESS-ADRESSE POSTALE: UNITED NATIONS, N.Y. 10017
CABLE ADDRESS-ADRESSE TELEGRAPHIQUE: UNATIONS NEWYORK

REFERENCE:

31 August 2004

Dear Mr. Harrison,

Re: Lloyd's Register Inspection Limited -
U.S. House Inquiry

I write in reference to your e-mail dated 13 August 2004 to Ms. Susan Ringler, Counsel for the United Nations Independent Inquiry Committee (IIC), regarding a request received by Lloyd's Register Inspection Limited (hereinafter "Lloyd's Register") for co-operation with the U. S. Senate's Permanent Subcommittee on Investigations in its inquiry concerning the Oil-for-Food Programme (OFFP).

Initially, I note that Lloyd's Register is bound by the confidentiality provisions set out in Article 13.1 of the General Conditions to its contract with the United Nations, which provides as follows: "All maps, drawings, photographs, mosaics, plans, reports, recommendations, estimates, documents and all other data compiled or received by the Contractor under this Contract shall be the property of the United Nations, shall be treated as confidential and shall be delivered only to United Nations authorized officials on completion of work under this Contract."

The Organization has no objections to a contractor responding to authorized subpoenas for records, documents, tapes or other materials, subject to certain conditions. I note, however, that in the present case, the requested co-operation would be entirely on a voluntary basis. In this respect, the IIC has endorsed the longstanding policy of the Organization not to release confidential, contractual or proprietary documentation or information in response to requests of individuals or member states, for the time being. Under the circumstances, the UN does not authorize the provision of materials or information relating to its contract with Lloyd's Register. Should Lloyd's Register receive an authorized subpoena, we would request Lloyd's Register to inform us so that the Organization may apprise Lloyd's Register of the conditions for responding to such subpoena.

Mr. Jim Harrison
Legal Director
Lloyd's Register Inspection Limited
71 Fenchurch Street
London EC3M 4BS
United Kingdom
e-mail: jim.harrison@lr.org

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Finally, we note that pursuant to the Secretary General's establishment of the IIC, and the Secretary General's commitment to fully cooperate with the IIC, Lloyd's Register is authorized by the Organization to deal directly with the IIC staff and to provide the IIC staff with access to all relevant Lloyd's Register records and witnesses. Under no circumstance is the production by Lloyd's Register of records and/or witnesses to the IIC a violation of the confidentiality provision of its contract with the Organization.

Yours sincerely,

A handwritten signature in cursive script that reads "Bruce C. Rashkow".

Bruce C. Rashkow

Director

General Legal Division

Office of Legal Affairs

cc: Ms. Ringler, Esq.